

Introduced by Senator WylandFebruary 19, 2010

An act to amend Section 18663 of the Revenue and Taxation Code, and to amend Section 13020 of the Unemployment Insurance Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1337, as introduced, Wyland. Personal income taxes: withholding.

Existing law requires the Franchise Tax Board to prepare wage withholding tables to be used by employers for purposes of withholding taxes on wages paid. Existing law requires, for wages paid on or after November 1, 2009, the wage withholding tables to produce a sum that is equal to 10% more than the sum specified for purposes of the withholding tables.

This bill would limit the requirement for the additional 10% wage withholding to wages paid on and after November 1, 2009, and before January 1, 2011.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 18663 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 18663. (a) (1) The Franchise Tax Board shall annually (or
- 4 more often if necessary) prepare and make available to the
- 5 Employment Development Department, wage withholding tables
- 6 that shall be used by every employer making payment of any wages
- 7 to a resident employee for services performed either within or

1 without this state; or to a nonresident employee for services
2 performed in this state, to deduct and withhold from those wages
3 for each payroll period, a tax computed in a manner as to produce,
4 so far as practicable, with due regard to the credits for personal
5 exemptions allowable under Section 17054, a sum that is
6 substantially equivalent to the amount of tax reasonably estimated
7 to be due under Part 10 (commencing with Section 17001) resulting
8 from the inclusion in the gross income of the employee the wages
9 which were subject to withholding.

10 (2) For wages paid on or after November 1, 2009, *and before*
11 *January 1, 2011*, wage withholding tables prepared by the
12 Franchise Tax Board pursuant to this subdivision shall produce,
13 so far as practicable, with due regard to the credits for personal
14 exemptions allowable under Section 17054, a sum that will
15 significantly prevent underwithholding by using an amount equal
16 to 10 percent more than the sum described in paragraph (1).

17 (b) (1) (A) For supplemental wages paid on or after January
18 1, 1992, the rate of withholding that may be applied to
19 supplemental wages in lieu of the wage withholding tables
20 specified in subdivision (a) shall be 6 percent.

21 (B) For supplemental wages paid on or after November 1, 2009,
22 the rate of withholding shall be 6.6 percent.

23 (2) For purposes of this subdivision, “supplemental wages”
24 includes, but is not limited to, ~~bonus payments~~, overtime payments,
25 commissions, sales awards, back pay including retroactive wage
26 increases, and reimbursements for nondeductible moving expenses
27 that are paid for the same or a different period, or without regard
28 to a particular period.

29 (c) (1) For stock options and bonus payments that constitute
30 wages paid on or after January 1, 2002, the rate of withholding
31 that may be applied to those stock options and bonus payments in
32 lieu of the wage withholding tables specified in subdivision (a)
33 shall, notwithstanding subdivision (b), be 9.3 percent.

34 (2) For stock options and bonus payments that constitute wages
35 paid on or after November 1, 2009, the rate of withholding shall
36 be 10.23 percent.

37 SEC. 2. Section 13020 of the Unemployment Insurance Code
38 is amended to read:

39 13020. (a) (1) Every employer who pays wages to a resident
40 employee for services performed either within or without this state,

or to a nonresident employee for services performed in this state, shall deduct and withhold from those wages, except as provided in subdivision (c) and Sections 13025 and 13026, for each payroll period, a tax computed in that manner as to produce, so far as practicable, with due regard to the credits for personal exemptions allowable under Section 17054 of the Revenue and Taxation Code, a sum which is substantially equivalent to the amount of tax reasonably estimated to be due under Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code resulting from the inclusion in the gross income of the employee of the wages which were subject to withholding. The method of determining the amount to be withheld shall be prescribed by the Franchise Tax Board pursuant to Section 18663 of the Revenue and Taxation Code.

(2) For each payroll period ending on or after November 1, 2009, *and before January 1, 2011*, the sum shall comport with the changes made to Section 18663 of the Revenue and Taxation Code, ~~by the act adding this paragraph~~ *Chapter 15 of the Fourth Extraordinary Session of the Statutes of 2009.*

(3) *For each payroll period ending on or after January 1, 2011, the sum shall comport with the changes made to Section 18663 of the Revenue and Taxation Code, by the act adding this paragraph.*

(b) The department upon request may permit the use of accounting machines to calculate the proper amount to be deducted and withheld from wages, if the calculation produces an amount substantially equivalent to the amount of tax required to be withheld under subdivision (a).

(c) Withholding shall not be required by this section with respect to wages, salaries, fees, or other compensation paid by a corporation for services performed in California for that corporation to a nonresident corporate director for director services, including attendance at a board of directors' meeting.